



MID-YEAR REPORT

CIRCUIT COURT FOR BALTIMORE CITY
CRIMINAL DOCKET

August 1, 2001

Honorable Ellen M. Heller
Administrative Judge

Honorable David B. Mitchell
Judge in Charge of Criminal Docket

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INTRODUCTION

This report is being issued in response to the 2001 Joint Chairmen's Report issued in April which requested a mid-year report on the processing of criminal cases in the Circuit Court for Baltimore City by August 1, 2001. As set forth below, the report will summarize the continuing initiatives that the Circuit Court has undertaken during the past year in order to reduce the delay of bringing cases to trial or final disposition. **The primary objective of these new measures is to process criminal cases in a timely, efficient, and most importantly, fair manner.**

PAST INITIATIVES

In reviewing this report, it is important to recognize that during the past two years Baltimore City has already initiated new measures which have significantly reduced the pending defendant inventory awaiting trial. As the chart below indicates, since 1999 the court reorganized the management of its docket; adopted a strict postponement policy; reconvened the Criminal Justice Coordinating Council; centralized arraignments in two courts; and implemented a new discovery court. In addition, in April, 2000 the court implemented a Differentiated Case Management ("DCM") system for all felony cases dividing those cases among four tracks and giving trial dates depending upon the nature of the charge, the number of defendants, the complexity of the issues, and the length of trial. Four new courtrooms were added for the trying of felony cases in early 2000 as well. This report will describe the on-going management programs that have been introduced during the past year.

The Baltimore Criminal Court Plan Core Objectives – Delay Reduction		
	<u>Completed</u>	<u>Timetable</u>
✓	Reestablish Court Management of Docket Judge David Mitchell, JICC	January, 1999
✓	Strict Postponement Policy	January, 1999
✓	Criminal Justice Coordinating Council	February, 1999
✓	Two Central Arraignment Courts	March, 1999
✓	Discovery Court	October, 1999
✓	VOP Liaison Project	October, 1999
✓	DCM Case Management System	April, 2000
✓	Month at a Glance Calendar	April, 2001
✓	Increased Video Bail Reviews	June, 2001
✓	Police Liaison Project	June, 2001
✓	Pre-trial Conferences	July, 2001
✓	Additional Felony Trial Judge	September, 2001

INITIATION OF PRE-TRIAL CONFERENCES

Felony cases in the Circuit Court for Baltimore City have traditionally been scheduled for arraignment and then given a trial date without any intervening event. There was, therefore, no opportunity to review the status of the case or to address situations that might arise prior to a trial date with the exception of discovery matters. Last year the Court initiated a discovery court which now provides an opportunity for parties to have a hearing and resolve disputes prior to trial. In April, 2000 the DCM system was implemented and the felony cases separated into four tracks: A, B, C, D. "A" cases were set for trial within 60 days and those on the "B" track set for trial within 90 days of arraignment. Those cases in which there were multiple defendants, or requiring significant pre-trial work, were set for trial 120 days from arraignment (Tracks "C" and "D"). It was determined that a large number of A and B track cases were being postponed at trial date because defendants had not obtained counsel. In addition, there were more complex cases on tracks C and D which reached a trial date with unresolved problems requiring a continuation. Therefore, effective July 2, 2001 the Court began scheduling pre-trial conferences in certain felony docket cases. These conferences will actually begin in the September term and are currently limited to two categories of felony cases. The first is composed of defendants who are in the community as a condition of being released on bail or under the supervision of the Division of Pre-trial Release and who do not have an attorney at arraignment. The conferences will also be scheduled in all Track C and D cases. All pre-trial conferences are scheduled for 8:30 a.m. on the dockets of those judges assigned to felony trials so as not to impact on the time available for trials. The maximum number of pre-trial conferences on any given daily docket of a judge will be five.

VIDEO BAIL REVIEWS

In Spring, 2001 a backlog in the processing of Video Bail Reviews was identified. In the past, it had been possible to schedule these bail reviews within one week of a request. However, a backlog had been developed where defendants were waiting almost four weeks for a review. Within two weeks of this problem being brought to the attention of the court, a meeting was held with all of the respective "players," and it was determined that beginning immediately Video Bail Reviews would be held two mornings a week on Tuesdays and Fridays at 8:30 a.m. The judges who will preside over these bail reviews are set forth on a rotational roster and will include the arraignment judges. As with the pre-trial conferences, these reviews are scheduled to begin at 8:30 a.m. so as not to interfere with the normal trial time. These reviews are in addition to the approximately 50 Habeas Corpus Bail Reviews heard by a Circuit Court judge at the Central Booking and Intake Facility every Wednesday morning.

COURT ORGANIZATION

Additional Felony Trial Judge

The Circuit Court for Baltimore City consists of 30 judges who are divided among the four dockets: family, juvenile, criminal and civil. Until Spring 2001, 14 judges were assigned to the handling of criminal cases. Three of these judges presided over prayers for jury trials in misdemeanor cases which originated in the district court. Two Circuit Court judges conducted the central arraignments on a full time basis and presided over the two drug treatment courts. That left nine judges presiding over general felony trials on charges including narcotic law violations, violent crimes, and property crimes. Because of the increase of new case filings, it was necessary to remove a judge from the regular civil rotation to the felony rotation and currently there are 10 felony trial judges.

The 15 judges assigned to handle criminal matters represent 50% of the court's roster. This number will continue in the future, although it remains insufficient. As set forth on Chart A, the guidelines for the court provide that there should be no more than five felony trials set before a judge five days a week. The actual number depends on the track category. In practice, the daily dockets have far more trials each day. On the special felony drug dockets, a judge may have between 10-15 defendants scheduled for trial on a given day. The court is fortunate to be able to utilize the services of retired judges and currently assigns them to preside over felony cases.

Associate Administrator for the Criminal Docket

With funding made available by Baltimore City, the court hired for the first time, an Associate Administrator for the Criminal Docket. The Administrator has been working since February, 2001 and has provided significant assistance to the court in the day-to-day management of the docket, as well as coordinating the long-term measures being undertaken.

VOP Liaison Project

A consistent objective of the court is to make the processing of violation of probation hearings more timely and to reduce the time a defendant is required to wait for these hearings. Many of these defendants are incarcerated and, therefore, the quicker the VOPs are scheduled, the less time an incarcerated defendant spends in the Baltimore City Detention Center. In addition, earlier VOP hearing dates provide an opportunity for the court to intervene in a way that might result in a defendant staying on probation and avoiding incarceration.

Therefore, in April 2000, at the request of the Criminal Justice Coordinating Council, a committee was created to assess the feasibility of a policy that would allow for representation of a Department of Parole and Probation ("DP&P") supervising probation

agent at a VOP hearing by a substitute or “liaison” probation agent. The committee consisted of a judge from Circuit and District Courts, as well as representatives from the State’s Attorney’s Office, the Public Defender’s Office, the Assignment Commissioner, the Clerk’s Office, and two representatives from DP&P. As a result, a pilot program was initiated in both the Circuit and District Courts providing for a liaison probation agent to be present on a particular hearing date prepared to testify about all of the defendants scheduled before the court. This program has proved so successful that currently 16 of the 30 Circuit Court judges are involved, and full implementation is projected for Spring, 2002. There are also three district court judges who are working with the project and expansion is contemplated there as well. In summary, this program has not only prevented postponement of VOP hearings because of a conflict in an agent’s schedule, but freed a substantial number of field probation agents from numerous court appearances.

DRUG TREATMENT COURT

It has been estimated that 85% of the crimes committed in Baltimore City are drug related and that the majority of the defendants have an addiction problem. In an effort, not only to meet the primary objective of delay reduction, but to lower the recidivism rate, Baltimore City created a drug treatment court in 1994 for non-violent offenders in both the District and Circuit courts. Defendants who are motivated and are otherwise eligible, have their cases assigned for supervision to a special unit of the Baltimore City Division of Parole and Probation. These defendants enter into guilty pleas for sentences which are suspended as long as they successfully participate in the program. This year, in order to enlarge the number of referrals to that program, referrals were expanded from the felony trial courts to include referrals from individuals who are scheduled on the violation of probation dockets, as well as the misdemeanor trial dockets, if the defendant has a pending Circuit Court case. The desired ratio is no more than 50 defendants per agent, but in December, 1999 a moratorium was placed on referrals until August, 2000 because the program had accepted more participants than the Division of Parole and Probation could effectively supervise. In good part because of additional funding provided by the State of Maryland, the Division of Parole and Probation increased the number of slots in the program, as well as supervisory agents. As of June, 2001, the Circuit Court had 331 active cases and the District Court 180 cases. Since December 2000, the program has accepted 226 new cases at the Circuit Court level and the May 4, 2001 graduating class was the largest ever: 83 success stories.

On a monthly basis, a committee meets to review the workings of the drug treatment court at both the District and Circuit Court level. Problems remain. For example, there must be a quicker way to evaluate defendants and refer them into existing drug treatment programs. In addition, more effort must be made to ensure defendants do not drop out of the program before treatment actually begins. However, Drug Treatment Court remains one of the most effective programs the Circuit Court has participated in. It not only provides an alternative to incarceration for appropriate individuals, but an opportunity to ensure these individuals can avoid becoming repeat offenders and stay in the community

as effective participants.

COMMUNITY SERVICE

The Baltimore City Community Services Program is another tool the court has in order to encourage timely resolution of cases. In addition, the opportunities to participate in the Community Service Program result in fewer jury trials and is another alternative to incarceration for the appropriate defendant. Historically, the Circuit Court for Baltimore City has used Community Service as a condition of supervised probation. As a result of collaboration with the State's Attorney's Office and the District Court, FY 2001 saw an increase in the utilization of Community Service as a pre-trial diversion in District Court in cases involving low-level, non-violent offenses.

Since FY 1998, the Baltimore City Community Services Program has partnered with Baltimore City Hot Spot / Comprehensive Community Program, Break the Cycle, and Working in Community (WIC) initiatives to implement community-based offender work crews. In addition, during 2001 the Mayor of Baltimore City made available additional slots at the Department of Public Works. As these new slots became available, the Circuit Court judges have been encouraged to utilize Community Service in resolving cases. Further, the court is creating an advisory committee which will consist of representatives of the District Court, Circuit Court, Public Defender's Office, Division of Parole and Probation and Pre-trial Services. During the first year of FY 2001, offenders in both the District and Circuit Courts completed a total of over 7,700 hours at city agencies, 5,600 at state agencies, and over 9,400 at non-profit and community organizations.

COMPUTERIZED MANAGEMENT PROGRAM

Statistics

The Circuit Court for Baltimore City is in dire need of a computerized management program for its criminal docket. Without an accurate computerized program, decisions affecting the management of the dockets cannot be precise. Much is based on approximation rather than actual data. For example, the DCM Program and the scheduling of cases under the scheduling order is done on a manual basis and not an automated computer basis. In addition, there is no data available which gives an accurate number of case filings and the category of those filings, e.g., homicides, robberies, property crimes, narcotic crimes. Further, there is no way to accurately estimate the length of time the case is taking from arraignment to trial or the number and reason for postponements. In order to remedy this situation, Chief Judge Robert M. Bell has directed that the Judicial Information Services ("JIS") develop a statistical program for the Circuit Court for Baltimore City within the next six months. The court has convened a committee with representatives of the State's Attorney's Office, Public Defender's Office, Clerk's Office, and JIS and is actively working on the statistical program.

Month At A Glance Calendar

Even before this recent commitment, Baltimore City had convened a Criminal Statistics Committee in August, 2000 to work with JIS. As a result, the DCM Program was implemented which provides not only for the calendaring of the cases, depending on track, but for scheduling orders that issue in each criminal case with pre-trial deadlines for discovery, pre-trial motions, pre-trial conferences, and trial dates. Another achievement of that committee was the development of a month at a glance calendar which allows the arraignment court and the assignment office to know the number of felony trials and pre-trial conferences set on an individual judge's docket, according to track category. The use of this calendar went into effect in April, 2001 and has been an invaluable tool in the scheduling of trials in order to ensure that the guidelines are met and to prevent postponements. See Chart B.

Comprehensive Computer Management Plan

A future item that must be addressed is the ability to have a computerized program for the entire management of the docket which would permit the court to review, on a daily basis, court activity in individual courtrooms. This would require not only a computer program, but the installation of computers in each of the courtrooms. Currently, a comparable system is in place for the juvenile docket. With this "tool," it would be possible to reassign cases on a daily basis into courtrooms from those which have been over or under-booked and to know instantly the disposition of cases.

DEFENDANT INVENTORY

In 1999, before the court initiated its reform measures, there were nearly 5,500 defendants awaiting trials. By January 1, 2000, there were 4,036 defendants pending trial representing approximately 1,500 fewer defendants. According to the current data available to the court from JIS, the monthly average number of defendants awaiting trials in the Circuit Court for Baltimore City during the first six months of 2001 was 2,479. See Chart C. The significant drop in the so-called pending defendant inventory is in part because it was discerned that previous numbers of "active" defendants included those who had been referred to Drug Treatment Court, competency evaluations, NCR cases, post conviction cases, and defendants awaiting sentencing and post-sentencing modifications after adjudication of their charges. Once JIS was able to exclude these cases, this more accurate number was available. **A review of this category indicates that at least two-thirds of these defendants have trial dates being set within the 180 day deadline under Maryland law.**

The total defendant "gross" inventory for the first six months of 2001 was a monthly average of 4,333 defendants with active cases. See Chart D. This number reflects all active defendants not only awaiting trial, but sentencing, Drug Treatment Court referrals, post convictions, competency referrals, and any other post trial matters. Between 1998 and

2001 it is significant that this defendant inventory was reduced to a monthly average of 3,552 defendants in 2000 from 4,735 defendants in 1998. In January and February 2001, the defendant “gross” inventory remained below 4,000 but has risen since then to 4,714 in June. Likewise, the number of defendants awaiting trial rose from 2,350 in January, 2001 to 2,671 in June. **Thus, although the defendant gross and net inventories have been significantly reduced from the 1999 levels, the first six months of 2001 show a gradual increase, which is most likely because the State’s Attorney’s Office in the first six months of 2001 has brought new charges and cases against 336 more felony defendants than in the first six months of 2000 (3,863 filings against new defendants in the first six months of calendar year 2000; 4,199 filings in the first six months of 2001). Additionally, cases entering the defendant inventory from sources other than these new filings have increased by 120 defendants over the equivalent period in 2000 (1,013 in the first six months of 2000 and 1,133 in the first sixth months of 2001). An example of such a source is warrant apprehensions by the Police Department. The total net increase for the first six months of 2001 was an additional 456 defendants when compared to the first six months of 2000. In short, in spite of a significant increase in the number of felony defendants, the Circuit Court has been able to maintain a reduction in its active defendant inventory of those individuals awaiting trial.**

POSTPONEMENTS

A review of Chart E indicates that when comparable six month periods in 1998 and 2001 are reviewed, the court has reduced the rate at which trials were postponed from an average of 902 cases per month in 1998 to 621 cases per month in 2001. This represents a 31.2% reduction in the incidences of postponed trials. This figure is a symbol of the significant change in the prevailing culture in the criminal justice legal community prior to 1999 when a postponement request was normally agreed to rather than denied under the new strict policy. However, although progress has been made, the figures for postponed trials remains too high. Specifically, the data reflects that during the first six months of 2001 the postponement rate was higher than during the comparable period last year.

The reason for this increase is unknown. Considering the new initiatives that have been implemented to reduce delay, it is puzzling why the postpone trial rate has increased. Unfortunately, in the absence of a statistical program, the court is unable to provide an explanation. Based on anecdotal experience, the increase in postponements most likely is caused by the increase in new criminal filings and the continued shortage of available defense counsel. The criminal statistics committee has developed a new postponement form which sets forth a series of coded reasons for postponements. It is expected by January, 2002 that the new computerized statistical program will be able to evaluate this data and identify the precise number and reason for postponements will then be available. It should be noted that in January, 2001 the court was able to refine the reporting of postponed trials by separating the number into felony and misdemeanor cases. See Chart F.

COURT LIAISON PROGRAM – BALTIMORE CITY POLICE DEPARTMENT

On June 1, 2001 a new Court Liaison Program was launched with the Baltimore City Police Department. This court provided office space in Room 219 of the Clarence M. Mitchell, Jr. Courthouse and through a grant from the Abel Foundation, liaison officers were able to have computers and cell phones with voice mail. The primary goal of the Liaison Program – at both the District and Circuit Court levels – is to reduce unnecessary officer appearances and court overtime while improving an officer's failure to appear rate and the professional appearance of officers. The primary effect of the Liaison Program is to ensure officers will be present at required motions and trial events and thus, avoid postponements. The program appears to be successful in both objectives.

The institution of the Circuit Court program has resulted in an immediate reduction in court overtime in Circuit Court. Prior to the Circuit Court's program the average officer's appearance was 5.6 hours and the current average appearance is 3.6 hours. In addition, the Circuit Court program works with the State's Attorney on the Pilot Felony CDS Indictment Program with the Grand Jury and estimates there has been a savings of over \$92,042 in court overtime in the first three months of its operations. This is in good part because 2,378 officers have been excused from appearing at 675 preliminary hearings as these felony CDS cases are now indicted before the Grand Jury. In addition, the number of appearances at both Circuit and District Court have declined and for the last pay period in FY 2001 court overtime was significantly reduced. The ability to ensure officers appearance in court should have a continued positive impact on the rate of continuances.

CONCLUSION

The Circuit Court for Baltimore City has undergone a complete re-organization of its criminal docket since January, 1999. The primary goal in its initiatives has been to provide for a timely, efficient and fair processing of all cases. In meeting that objective, the court is implementing reform measures that will further reduce the time it takes to resolve these cases. For the 2001-2002 time period, the court is focusing on the development of a computerized statistical program in order to make more educated decisions about the management of this docket. As set forth above, the court is working with JIS on developing data and reports that would allow us to determine the accurate number of filings, the category of those cases, the age of our pending inventory, and the number and reasons for postponements. It is expected this data and its reports will be available beginning January 2002.

Significant progress has been made. Nevertheless, the court recognizes it must continue to initiate programs in order to ensure that cases are not unnecessarily delayed on its dockets.

Computerized Management Program

It is imperative that the court have a comprehensive computerized management program. For example, having “real time” information about its daily dockets would permit redistribution of trials between courts for more equitable case loads and, at the same time, allow the judge in charge of the docket to know what is going on in each courtroom. This, in turn, would assist in setting future trial events and most importantly, provide for the greatest utilization of the judges. A comparable program does exist in the juvenile court. At a minimum it requires computers in each of the courtrooms so that data can be entered and the development of a program. Computers in the courtroom would also assist the Clerk’s Office in becoming more efficient and orders, opinions, and schedules could immediately be distributed from the computer to the appropriate parties. In turn, docket entries could instantaneously be made.

Additional Judges

Additional judges are also needed. Whereas at the beginning of these initiatives, one could say that the delay was caused because the system was at fault; there must now be acknowledgment of the significant number of defendants the court is required to process. Metaphorically speaking, water can overflow because a glass is broken. Water can also overflow because there is too much for the container. There is no other jurisdiction in the State of Maryland faced with the dockets that confront the judges in Baltimore City. Of the 30 judges, currently 15 – 50% – are assigned to handle the criminal cases. These judges are assisted by six retired judges. Five days a week, on a daily basis, those judges on the criminal docket face a minimum of five serious felony cases set for trial. On the general felony docket, that judge faces three to five homicides a week set for trial. The number of cases set for trial cannot be reduced or the delay will become longer. Likewise, there are no additional judges available to assist with the caseload without inflicting serious adverse effects on the Juvenile, Family and Civil dockets. Add to this the fact that the number of new charges is rising, there loom major challenges in the future.

Additional Defense Counsel and Prosecutors

Of course, it is not enough to have additional judges if there are not sufficient defense attorneys available. With the number of criminal defendants in Baltimore City, there must be recognition that the Office of the Public Defender, as well as the State’s Attorney’s Office, have to have sufficient resources in order to provide effective representation. It is the experience of this court that most trials are continued because of attorney conflict which results from a shortage of prosecutors and defense counsel.

Criminal Justice Coordinating Council

The Circuit Court for Baltimore City continues to work with the related criminal justice agencies in Baltimore City in order to develop the initiatives necessary to manage

its docket. The Criminal Justice Coordinating Council remains the most important mechanism for communication between the various parties and within the next few weeks a Memorandum of Understanding will be signed. In September, the Council members will have a retreat to develop a strategic plan for the improvement of the criminal justice in Baltimore City. This court will continue to assume a leadership role in that endeavor.